

HARVARD LAW RECORD

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TWENTY CENTS

Council Readies Course Guides For Distribution

The Law School Council's HLS Course Guide should be ready for distribution this Friday or early next week, according to Brian A. O'Connell 3L, secretary of the Council.

The Council's hopes for distributing the guide free rest on persuading the Law School to absorb all costs of the project, which have risen above the \$250 originally made available by HLS. O'Connell said that increased expenses reflected extra secretarial costs, a result of a greater-than-anticipated response to the Council's questionnaire, which students were asked to complete before spring vacation. He said that any charge made for the booklet will be held to an "absolute minimum," probably a dime.

(Continued on Page 5)

Chicano Members Pull-Out Of Civil Rights Law Review

By Kermit Kubitz

A breakdown in communications on an individual and on an organizational scale as well as a conflict about the purpose and direction of

The events leading up to the walk-out began with the March 7 election of officers in which the final two candidates were Michael J. Goldberg and Anthony P. Marquez, both 2Ls. The election itself

Harvard Civil Rights

Civil Liberties Law Review

the Civil Rights-Civil Liberties Law Review led to a walk-out last month by Chicano members of that publication's staff along with some other minority members. The withdrawal included Jose A. Silva, 2L, the Executive Editor and Chris J. Lucero, 3L, an Articles Editor.

was the culmination of a longer period of time during which Chicano members of the staff had tried to increase minority input to the CR-CL, according to Lucero, who emphasized that he expressed only his own opinion, not that of the Chicano students association.

The question of policy of the CR-CL Law Review was basically one of determining the nature and tenor of articles which were to appear. Robert C. Brown, 3L, outgoing Managing Editor, noted that, "Minorities have had a lot of problems with officious white intermeddlers coming in and [messing] them up. They felt some of the articles we had run had shown a lack of sensitivity."

Lucero's explanation of the push for increased minority participation in the decision-making at the CR-CL is grounded in the belief that, "One of the major functions of that kind of review is expounding on the legal role of minorities. There should be strong minority input."

Instead, Lucero felt that the

(Continued on Page 2)

'Educational Policy' Works Against Placing 'Gilbert's' In Reading Room

By Frank E. Sisson

Harvard Law students will in the near future have access to a library with better lighting and with "suggestion notebooks" providing written responses to questions and complaints. But whether Gilbert's outlines will be made available in Langdell Hall remains to be seen.

The Library Committee met shortly before spring vacation to discuss the results of the student library poll. Space and classification problems were discussed for half of the lengthy March 26 meeting; issues raised by poll questions and comments took up the remainder of the time.

Attending the meeting were Douglas W. Bryant, Harvard University Director of Libraries, Dean Albert M. Sacks, Professors Morris L. Cohen, Richard R. Baxter, Morton J. Horwitz, and Louis Loss. Student representatives E. Mabry Rogers, 3L, Stephen R. English, 2L, and Pamela S. Meyers, 1L, distributed a memorandum suggesting various improvements some of which were based on the poll.

Professor Cohen described the meeting as "very useful." He explained, "It did what the student

(Continued on Page 3)

Chicanos Boycott CR-CL Law Review

(Continued from Page 1)

CR-CL was viewed as a consolation prize for not making the *Harvard Law Review* which people used "to pad resumes....Then they take jobs with big law firms. There was no strong commitment to the ideals of civil rights and civil liberties."

To alter this situation, Lucero explained, "We got any minority we could to work on the staff. We spent a year trying to set up the situation so when elections came we could elect an Editor-in-Chief."

Besides Goldberg and Marquez, John W. Hanley Jr. and Jeff Gordon, also 2Ls, sought the position of Editor of the CR-CL Law Review. The election meeting was structured so that each candidate would make an opening statement and then leave the room while the candidates were singly asked questions by the CR-CL staff members.

At the March 7 meeting, "ideology was very important," according to Brown. Factors such as where a person worked during the summer and was planning to work after graduation were felt to reflect upon the individual's attitude toward the objectives of the CR-CL Law Review.

Brown also said that there was some resentment of the "blatantly political" support of Marquez by the Chicano and other minority students. He had anticipated problems, he said, because he "knew all Chicanos would be backing Tony."

When the first ballot was held, Marquez received 16 votes, exactly the number of minority students attending the election meeting. In the final election against Goldberg, Marquez received only one more vote, according to Lucero.

"The Chicanos felt to a degree that Tony lost the election," Brown acknowledged, "because of white attitudes toward him."

Another source of dissatisfaction at the election was the fact that only one third-year editor,

Edward Eitches, had edited the work of both Goldberg and Marquez, and seemed to clearly favor Goldberg.

Explaining the lack of multiple evaluations of a staff member's work, Brown said, "At Gannett House, everybody does so much in the course of a year that you have a pretty good idea of somebody else's work. We have a problem getting people to spend that sort of time."

Lucero felt that some of Eitches' critical comments were unfairly based on an article by Marquez originally scheduled for publication in the January issue which Eitches had praised shortly before the meeting. "Marquez," said Lucero, "had worked extremely hard all year. It was ridiculous how much work he did. We spent two and a half years trying to get a Chicano elected Editor-in-Chief."

Goldberg was elected Editor, and promptly tried to repair some of the damage caused by the voting.

Marquez was offered a position created by Goldberg called "supervising editor" which was intended to prevent misunderstandings between editors and authors such as had occurred over Marquez's article. Goldberg said his objective was to "design a staff where that couldn't happen."

At a meeting about a week later, on March 16, Goldberg was told that the Chicanos, "wanted a greater policy input" on the law review, and Marquez stated that he would prefer to be managing editor.

The proposal ultimately made to Goldberg was for a "Policy Board" through which minority students would exert greater influence over the CR-CL Law Review. Of five members, three would be minority students, a chicano, a black, and an American Indian.

It was over the powers of the Policy Board that the reconciliation between Goldberg and the Chicanos ran aground, leading to

the wholesale resignation of a major part of the CR-CL's staff.

It was Goldberg's conception that the board being proposed was essentially equivalent to transferring to a committee the duties envisioned for the post of supervising editor offered to Marquez. "There is a problem with white people trying to write about minority issues," Goldberg said. "If minority people have strong feelings about a subject they should have some kind of an input." The Policy Board would have provided that input, according to Goldberg.

However, a proposal for the Policy Board presented to the CR-CL's new Editor-in-Chief by the Chicanos March 19 was, in Goldberg's eyes, "Not very close to what I was talking about Monday night."

His chief objection was that the Policy Board as proposed would have meant, "Minority control over all aspects of all articles." The objective, according to Lucero, was to have the role of minorities institutionalized. The board would have had "ultimate say so on the type of articles, not necessarily its content. We wanted a tighter rein on the review."

"I think they viewed it as a complete power play which would destroy the Editor-in-Chief's role," commented Lucero on reaction to the Policy Board proposal. He added, "I don't think that really would have happened."

Bob Brown, describing the proposed board, said, "My view of the Review Board was that it was an attempt to set aside the election."

The questions of how much control the Policy Board would have over the content of articles and how much power the Board would have to select editors became irreconcilable differences between the Chicano faction and the incoming CR-CL Editor. Goldberg questioned on a functional level whether such a board could review all the articles that would appear in the law review, asserting, "The law review could not function by committee....We don't have such a tremendous staff that we could

(Continued on Page 7)

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Policy View Knocks 'Gilbert's' in Library

(Continued from Page 1)
representatives wanted — to remind the rest of us that one of the goals of the library is to serve students. Both the poll and discussions oversimplified some issues, but the net experience was a beneficial one."

Due to time restrictions, not all of

decision is undesirable in that it means delay and the need for faculty approval for what is basically a library issue within the control of the Library Committee. Dean Sacks and Professor Loss, in strongly advocating the "educational policy" argument before the Committee, are most directly in

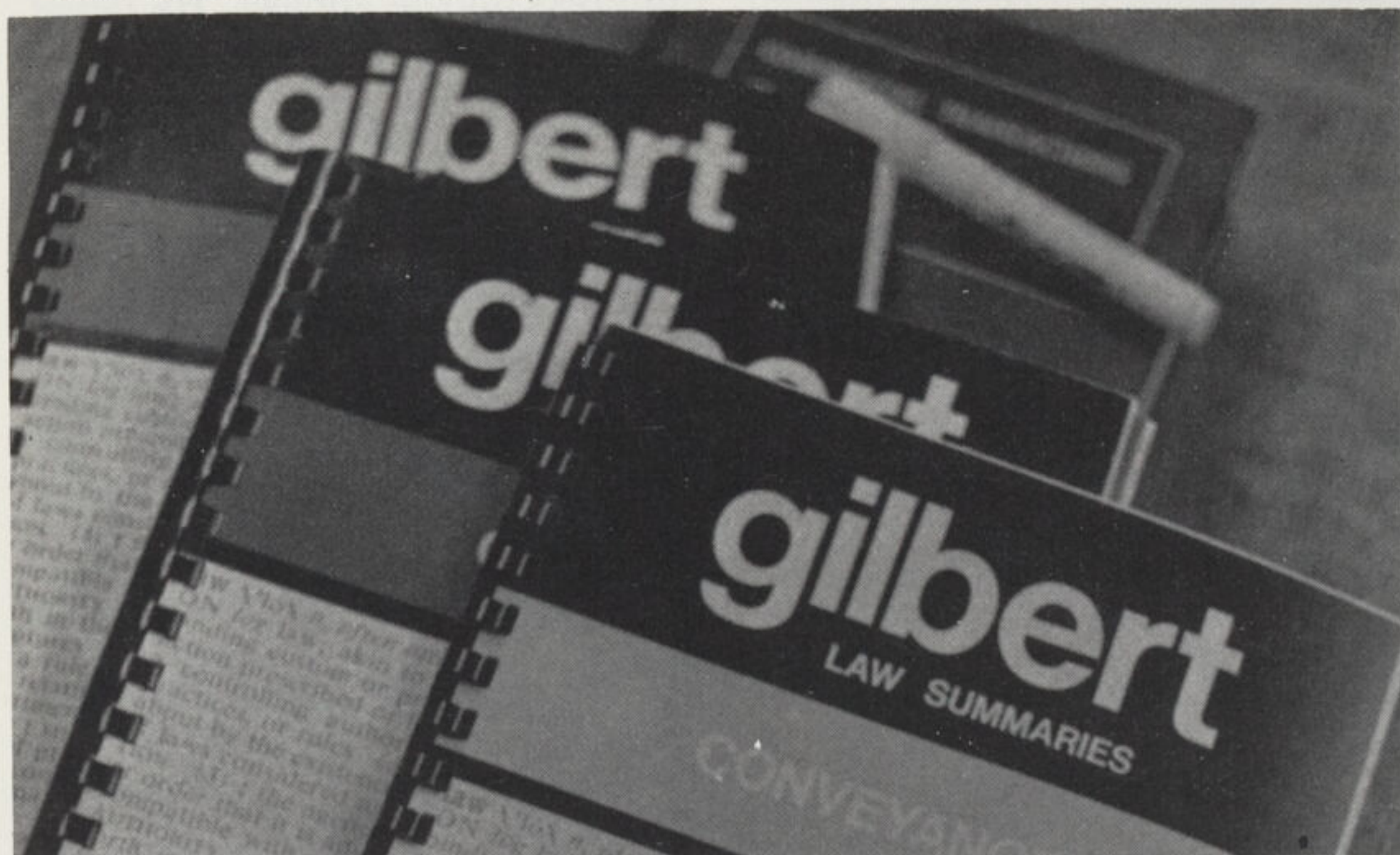
Renovation of the north end of the reading room is an issue currently being explored by Cohen. Yet if the north end were to be modelled after the south end, the number of seats in the library would fall below the minimum required for accreditation by the Association of American Law Schools. Thus, Cohen explained, another renovation pattern would have to be used with possible modification of the south end to include more seats as well. This would tentatively occur after this summer.

A lighting engineer was called in this week to take measurements of reading room light. Cohen stated that such action was influenced by poll comments although it was not discussed at the Committee meeting. Some explanation of lighting availability will be made available and improvements should be forthcoming where necessary.

Assistant Librarian Mrs. Mary L. Fisher released a statement to the RECORD this week that notebooks would be available at circulation desks for "suggestions or inquiries regarding the Library." The statement concluded "Public Service will try to provide an answer within 48 hours on the facing page of the notebook on which the question is written."

Cohen commented that he had seen this system used effectively at Oxford; he stated that questions were invited on specific bibliographical and reference problems in addition to suggestions on improving administration. Rogers noted the advantage of being able to "flip back and see if the question has already been answered." The student committee members had recommended posted library answers or a RECORD library column as welcome alternatives to the ineffective "suggestion box."

While Cohen hopes for another meeting of the Committee to discuss the rest of the poll issues and to set general priorities following the official poll report, it is evident that the poll was a major factor in drawing Cohen's and the Committee's attention to critical student concerns.



Mark McNeil

Can outlines overcome 'educational policy'?

the problems highlighted by the poll could be discussed at the meeting. Cohen identified Gilbert's outlines and the food and drink rule as the two major poll issues discussed at length.

Faculty positions on the Gilbert's outlines question ranged from acquiescence to outrage at the idea of giving tacit approval to such materials. A middle position expressed was one of preliminary support for the student proposal given Cohen's 150 dollar estimate for the experiment, with a shift against the proposal when the tone of the discussion became tinted with arguments of academic dignity. The final outcome on the issue was the decision to submit the problem to the Legal Education Committee, from which it might go before the full faculty.

"I will await a recommendation from that committee and, if necessary, from the faculty," commented Cohen. "It was not a library issue as much as an educational policy question."

Student representatives of the Committee complained that this

conflict with the student position.

The food and drink prohibition in the library was reconsidered in the light of a student proposal that there should be a new rule "either allowing food and drink in the Root Room, with dispensers located there, or allowing coffee and soft drinks in the library while continuing the ban on food."

Cohen reported, "We are trying to work out some satisfactory means of permitting drink in some area of the library." The Root Room is one of several possibilities though Cohen described a similar experiment with the Root Room years ago as "disastrous." There is space above the Root Room which could be utilized as a food and drink area, but the Harvard Journal of Legislation staff currently occupies the area.

Student representative Rogers praised the snack bar arrangement of the Radcliffe Hilles library, which has had no problems with students bringing food to other areas of the library. The Langdell food and drink area would ideally involve a similar lack of policing according to Rogers.

Kelley Foresees More Open FBI

By Ricardo Hinojosa

"We represent and do not rule" were Federal Bureau of Investigation Director Clarence M. Kelley's emphatic words as he addressed a group of about 200 on March 26 at the Harvard Law School Forum in the Ames Courtroom.

Kelley was introduced by Professor James Vorenberg who mentioned this was the first time an FBI Director had spoken at the Law School and explained that Kelley wanted the FBI "to operate more openly." Kelley carried this openness theme throughout his address by stressing that the Bureau was presently "geared to change and innovation."

The FBI Director, who was appointed to his position last July by President Nixon, alluded several times to his desire to report to groups such as the Forum on what the FBI was doing and to gain insights from his audiences regarding what the organization was doing wrong.

After giving a brief description of the FBI structure in which he stated that it is directly under the Department of Justice, Kelley said he felt "no discomfort because we are under the Attorney General." Since the FBI is in the Executive Branch it is in effect under the President but "this does not mean that I'm bound by self-imposed restrictions that may come from the Department, the Attorney General, or the President."

Admitting that some of the recent Watergate scandals have hurt the FBI's image, Kelley said "the difficulty has been minimal." He added he had "not been at any time subjected to any political pressures nor have had to do anything illegal."

Kelley, who previously served as an FBI agent and for 12 years was head of the Kansas City, Missouri police force, stated that when a person speaks of law enforcement he thinks of "integrity, integrity, and integrity." It was his conclusion that this is what the FBI strives for in its operations.

"You can listen to me sell the FBI, but nothing sells you better than performance," he con-

tinued. As examples of the Bureau's "good solid performance" the FBI head proudly recited that out of ten recent kidnappings, nine had been solved by the organization.

The FBI Director's remarks were followed by a lengthy question and answer session. The session opened with a surprising charge by two members of the National Caucus of Labor Committees that Vorenberg was involved in a Central Intelli-

and only 2.2% of those have been put on computers.

Responding to other questions on the same subject, Kelley stated "we're on the throes of a study" of the criteria for opening up security type investigation files and legislation will have to be presented to Congress on the subject. He listed some reasons which he feels go against opening up the files, such as the protection of informants. He went on to promise "that we will



Cathy Yandell

FBI Director Clarence Kelley equates law enforcement with integrity

gence Agency plot under the Law Enforcement Assistance Act grants. Kelley very politely brushed these comments aside.

Kelley did face some more serious questions including one from Vorenberg asking about FBI files on individuals. The FBI chief responded that "most of the difficulty arises over rap sheets" which cover arrests and convictions. He assured his audience that if a person wants to see his file "you may do so." However, it was pointed out by FBI Assistant Director Wason G. Campbell, who is in charge of the Computers Division, that a person must submit a set of fingerprints and a \$5 fee before he can receive his file.

Campbell, who sat next to Kelley at the podium, also pointed out that an ability to see a file applies only for arrest and conviction records and does not include field investigation reports. There are presently 21 million arrest records on file

maintain the sacredness of these files" and that the FBI is "very assiduous in protecting an individual."

Another area covered by the questions was the guidelines used to carry out domestic security investigations. Kelley reacted to such questions by stating that in order for such an investigation to be started it must be an activity reported by a "reliable source" and one which will lead to a "prosecutable offense" or overthrow of the government by violence. The FBI would rather not have to carry out such investigations but unfortunately we do have activities "which present a danger to our country," he maintained.

"We've always had and have today a strong foreign intelligence threat," charged Kelley in stating that domestic security investigation must be continued.

Senator Tunney Predicts Impeachment by June 1

By Michael Bowen

Senator John Tunney of California predicted in a speech here last month that President Nixon will be impeached before June 1.

"My hunch is that there will be an impeachment vote before June and that the President will be impeached," Tunney said during a talk to approximately 100 persons here on March 22. The comment came in response to a question from the audience concerning Tunney's impression of the feeling among his colleagues about President Nixon's departure.

Tunney also said that he supported the definition of 'impeachable offense' developed by the staff of the House Judiciary Committee, and that he believed a majority of the House of Representatives also accepted it.

Before making these remarks, the California Senator read a prepared speech in which he attacked the legal profession for what he characterized as its lack of responsiveness to the legal needs of poor and middle income families, its ethical insensitivity, and its toleration of incompetence among many of its practitioners.

Admitting that he himself had gone to a Wall Street firm upon entering private practice, Tunney said that "the downtown law firm offers the most money, the most intellectually dazzling experience, and the most job security." Because of this, Tunney said, "Most lawyers are in group or corporate practice. Few serve the poor or middle class."

Tunney indicated that these tendencies are exacerbated by minimum fee schedules, which he said are "price-fixing, and illegal per se under section 1 of the Sherman Act."

"The American Bar Association, to which over half the members of the profession belong, and a network of state and local bar associations exert virtually total control over admission to the bar, accreditation of law schools, regulation of the profession in general, and disciplinary procedures," Tunney said in explanation of the power enjoyed

by the minimum fee lists.

Tunney also observed that the Watergate scandal had raised substantial questions about the ethical standards adhered to by most lawyers.

"Anyone who regards this past year as an auspicious one for the legal profession must have been sequestered in a seminar on common-law pleading," Tunney said. He claimed that lawyers were "deeply involved in Watergate," that they had "lied under oath," had "lent their talents to the perversion of such concepts as executive privilege," and had "given the honorable profession of plumbing a bad name."

In his discussion of professional abilities among attorneys, Tunney asserted that "the competence of some lawyers is beyond belief, it's so bad. Judges have to hold the lawyers by the hand and lead them through the case."

Tunney suggested that the typical law school curriculum is at least partly to blame for this situation.

"When the student graduates from law school, he is a generalist," Tunney remarked. "He is almost incompetent to handle a position in court." Recalling his own courtroom debut as counsel with the Air Force Judge Advocate General Corps, Tunney quipped that, "Fortunately for the accused, I was the prosecutor."

Tunney noted that a broad range of reforms had been proposed as remedies for these failings. He directed attention to suggestions that the federal government involve itself in the regulation of the legal profession, including "testing and retesting" to insure competence, and a requirement that graduating law students do some legal work for the poor in order to gain admission to the bar.

In an effort to moderate the costs of litigation, Tunney observed, some had called for the "use of equitable powers by courts to slash excessive fees," and the "banning of lawyers from some types of federal actions."

Council Readies Course Guides For Distribution

(Continued from Page 1)

The anticipated press run of 700-1000 copies of the Guide will be passed out to students on a first-come, first-served basis. Its 20-25 pages will contain only the statistical survey of student opinion compiled from the objective portion of the Council's questionnaire.

O'Connell said that the only courses for which these results will not be printed are those which will not be given by the same professor or not be given at all next year, as well as a few for which the response was not considered adequate for tabulation. Results for omitted courses will probably be available in some form later. O'Connell placed response to the questionnaire at generally from 25 to 48% of course enrollment.

A committee consisting of O'Connell, Jamienne S. Studley 2L, Council president, and Russell L. Richeda 2L, has superintended the Course Guide project, a new venture for the Law School. The committee is still considering ways to make available to students the individual comments written on the backs of the questionnaires. The present plan is to place several photo-copies of these on library reserve, after professors have been furnished with the student observations and remarks. O'Connell described these comments as constructive in most cases, and as occasionally "very imaginative."

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Simulated Sessions Illustrate Basics of Negotiation Process

By Kermit Kubitz

As a result of a request for training in the negotiating process for 1Ls involved in the Williston Competition, 30 HLS students this week wrestled with the problems of labor relations and public housing in a course developed by the National Center For Dispute Settlement.



Negotiators are taped for replay and critique

Mark McNeil

The three day course, taught by NCDS instructors Joyce Alexander, Carol Falls, and William F. Lincoln, attempts to teach the basics of negotiation through use of simulated negotiating sessions between tenants and management of a housing project and workers and employees of a manufacturing company.

Impetus for the course was a request by Michael J. Critelli, 3L of the Board of Student Advisers, who asked the NCDS office in Boston to assist in preparing 1Ls for the Williston Competition last October. Although no program could be set up at that time, the offer of a course in the spring semester was made by NCDS.

The National Center For Dispute Settlement was set up within the American Arbitration Association under a Ford Foundation grant. Its purpose is to apply the tools of conciliation, mediation, and arbitration to the conflicts which have developed in non-business institu-

tions such as housing projects, prisons, and schools.

Lincoln explained the background of arbitration and negotiation at an introductory session for the course's participants Tuesday. He made the point that voluntary submission to arbitration was the end result for 25% of Philadelphia's court cases and mentioned, "The Old Testament is just filled with

arbitration."

Collective negotiation, Lincoln stated, "Is not a business of winning or losing." Rather it is an attempt for, "Both sides to develop an accommodation for that particular time in history."

The dynamics of the bargaining process were explained in four dimensions: 1) Across the table, between the opposing sides; 2) Within the various members of each bargaining group; 3) Between the members of the bargaining team and their constituents; and 4) "Under the table," which Lincoln described as covert bargains reached between members of opposing sides.

The two negotiating simulations used by the NCDS instructors are "Settle or Strike" and "North Middleborough Housing Development." Four or five person teams of law students assumed the roles of opposing bargaining teams in each dispute, and attempted to negotiate a settlement during a daylong exercise Wednesday.

Phones to Ring; Council Agrees Subsidies to June

At its March 25 meeting the Dormitory Council defeated a proposal to terminate its subsidy of the pay telephones in the new dorms. The Council's Telephone Committee had recommended immediate suspension of the \$1500 annual subsidy in view of a deteriorating financial position. However, there was little sentiment on the Council for cutting off the pay telephone users in the middle of the year. The phone service will therefore remain uninterrupted through June.

The extent of the telephone subsidy for the 1974-75 academic year remains undecided. The Telephone Committee had also recommended that each floor assume responsibility for paying for its own telephone. However, the Council felt that the size of the subsidy should be considered in conjunction with all other expenditures, and referred it to the Budget and Pricing Committee.

At its April 8 meeting the Council appropriated \$25 to advertise a live concert and jam session scheduled for early May. Among those performing will be William L. Rothschild, 3L, Donald J. Friedman, 2L, Pamela J. O'Shaughnessy, 2L, Efraim A. Cohen, 2L, and Irving A. Cohen, 2L. There will be a cash bar, but no admission charge.

Council members also heard a report on the movie program. The last two movies, "Bullitt" and "The Trojan Women", drew more people, and even made small profits. In view of increased attendance both this week's movie, "Who is Harry Kellerman ...?", and next week's movie, "High Plains Drifter", will be shown twice, at 7:30 and at 10:00. Next year the movie program may be further upgraded with a shift to the Science Center.

**The Record will
be published on
April 26 and May 3.**

Law Commune Quartet Tells About Work to HLS Group

By Kermit Kubitz

The legal practice described by David N. Rockwell, '71 and Anthony P. Sager, '71 to a packed crowd in the Mallory-Smith Room Monday is not typical of the careers of most Law School graduates. As members of the Law Commune of Haroz, Katz, Rockwell & Sager, they choose to balance fee-paying work with unpaid political trials in an effort to blend the work of lawyers into the life of the community.

At the meeting, organized by the Boston chapter of the National Lawyers Guild, Phil Weinberg and Jim Miller from the Law Commune of Flynn, Geller, Miller & Tay at the same address, 698 Massachusetts Avenue, described how they had reacted to the feeling that, "There are thousands of people who need lawyers."

The choice of cases is not the only thing that distinguishes these law communes from the downtown Boston firms. Collective work is another focus of the law communes, and at one of the communes it was reported, "We used to all get together to go to each other's district court cases. Now we all go to jury trials together."

Asked how they set fees, one member of the quartet replied, "We started off looking at what the bar charges and cutting that in half."

Although it was not their original practice, they tend increasingly to charge by the hour. The hourly rate is about \$25.

Fees, however, are still modified by the circumstances of the case. "Superimposed on what they earn," a commune member reported, "is how much we want to do the case."

"A woman in a sedate neighborhood called up wanting a gay bar closed down," the speaker continued. "It was a half hour hearing and we asked how much they were going to pay. She said \$1500. We said OK."

"Did you take it?" queried a member of the audience.

"No, we didn't take it."

Decisions about what cases to take are made at case meetings held once a week. Another weekly meeting at which any subject of interest may be raised is also held. "We decide in some kind of joint way."

"It depends upon what the validity of these cases are, what kind of financial shape we're in that week. We don't have any set criteria one, two, three, four about whether we take a case."

Indistinguishable from their as yet un-bar-examined audience in flannel shirts and blue jeans, the law commune representatives de-

(Continued on Page 15)

Chicanos Leave CR-CL Review After Elections

(Continued from Page 2)

take five people and put them to work solely on the Board."

To some extent, Lucero agreed, commenting that, "I'm not even sure we could have gotten people to fill three positions on the Board, but we wanted them there so the roles of minorities would be institutionalized."

Goldberg also felt that he could not adopt such a proposal without seeking the ratification of the rest of the staff of the CR-CL, whereas the Chicanos, "felt as Editor-in-Chief I had the power to do anything I wanted."

Although Goldberg had told the Chicanos that if he could agree on a structure for the Policy Board, he would press for its adoption as a personal vote of confidence in him, he rejected the final proposal. He said, however, that he had set up two new offices, Senior Articles Editor and Senior Comments Editor. The second position was designed to supervise relations between writers and editors. The practice of holding editorial conferences was also to be opened to all who had an interest in the subject of a particular article.

As a result of the withdrawal of the Chicanos, several articles which were being prepared for the CR-CL Law Review will not be published. Both sides will have lost something in the dispute.

"The next two issues will be thinner than we had hoped," reported Goldberg. Lucero stated that the Chicanos had lost "a hell of a lot. It was a really important forum for Chicanos. The Harvard Civil Rights-Civil Liberties Law Review is the fifth most widely read law review in the country."

"There isn't one Chicano who has anything against Goldberg," Lucero added.

"This law review in particular," said Goldberg, "has stronger political orientation than the average general interest law review....The political content and direction of our articles is important."

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<i>Inbau, T, H, Z & S</i>	Criminal Procedure '74
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"Symposium on Prisons" Depicts American

By G. Bruce Kuehne

The "Symposium on Prisons" held Wednesday night in the Pound Building reflected one cosmos of thought on the prison system in the United States — the consensus that the penal system in the United States is a disastrous failure.

The Symposium was jointly sponsored by the Prison Legal As-

sociation, which followed the film gave the audience of about 75 a more personal glimpse into prison conditions, as well as a glimpse into the prison as a social and political entity.

John Boone, former Massachusetts Commissioner of Corrections, Donald Landry, a convict serving a life sentence for homicide, Bernie Grossberg, attor-

ney and discriminatory. "The best solution to the prison problem right now is to get rid of prisons," he said. "When I was commissioner, I reduced the prison population from 3500 to 1700 in 17 months, using parole. I don't think parole is a good solution to the problem, but it's the best we have now and we have to live with it. But our object should be to get the people out of prisons who don't belong there. For instance, many inmates are there for using drugs. It's easy for them to get drugs in prison, and more difficult to break a habit. Others are there for being homosexuals. If we'd get these types of people out of prisons and get the laws off the books that put them there, then we'd have gone a long way towards improving the system.

"But even this isn't enough. Prisons are symbolic. Their only purpose is to cloud issues and provide pure punishment. The system is inhuman. It comes down to a question of whether we're willing to treat people like people. We have a fuzzy policy. No one knows what's going on in prisons, or what our public policy is. I don't. I'm afraid some more people will have to be killed before we move. Meanwhile, the guards have a high interest in keeping the prison population high. Their jobs depend on that. So we can't just reduce the prison population, we have to also take care of the insecurity of the guards at the same time we're trying to resettle the prisoners. We've got to retrain them, just like we do the prisoners. Let them be mailmen, school teachers or lawyers.

Asked what he thought should be done affirmatively, Boone skirted the question — "Nothing that we have now works. I don't think the state should be in the correction business. We should take that money and give it to the counties, to be put into a vocational institution. We have to put our resources where they count. If someone does something really dangerous, he'll be contained. But there's just no reason to spend \$10,000 to send someone to prison to make him worse. Not when we could spend half

HARVARD LAW RECORD



Mark McNeil

John Boone, Dan Nolan, Bernie Grossberg and Emo Landry.

sistance Project, a federally funded program designed to provide legal aid to inmates of Framingham and Walpole Prisons, and the Center for Criminal Justice, a Harvard Law School group dedicated to studying and improving the administration of criminal justice.

The Symposium began with a documentary film on Massachusetts prisons. The film, "With Intent to Harm," attempted to depict the basic inhumanity of prisons: the unsanitary conditions, discrimination against the poor, the attempt to control inmates by destroying their spirit and dignity. But the film also gave a glimpse of a new, perhaps revolutionary, process which is going on in some of the prisons in the United States — the fact of prisoners organizing themselves into political groups, attempting to communicate with the outside as a political force.

The informal group discussion

ney for the Prisoners' Rights Project, and Danny Nolan, an ex-inmate at Walpole entertained questions after the film. Each man agreed on the basic issue — the prison system in the United States is a disgrace. The recidivism rate is about 70%; the cost about 38 million dollars per year in Massachusetts, 100 billion in the United States; and the cost in human dignity and suffering is staggering.

The four easily agreed that the prison system was a disgrace and a failure. But there the unanimity ended. Persons in the audience repeatedly asked what alternatives they could offer. They responded with isolated ideas, but no comprehensive program of reform, especially no politically viable one.

Boone, for instance, quickly revealed why he had been fired from his former post — he refused to compromise with a system he considers to be fundamentally unfair

Penal Institutions as Disastrous Failures

that to make him better."

Nolan disclaimed any responsibility for coming up with solutions for the community: "I never got past the eighth grade, I'm no professor. All I can do is tell you what prisons are like. It's the community that has to pay the cost in taxes, in human misery, in high crime. It's the community's responsibility to come up with a solution. I don't know what that is, but we're putting people on the moon; we must be able to come up with a better answer than we have.

"I don't think society would demand that people be put in prisons if they realized what it did to people, how much it costs, and how much crime it produced. I don't think we can negotiate for human rights.

"We hear a lot about prisoner riots, but there are also many guard-created riots and rebellions. What the guards want is usually opposed to what the prisoners want. The prisoners want more mail, more exercise, more educational opportunities, more furloughs. But the guards depend on a high prison population for job security. They want more cell-time, since it means less work. And when the guards see their interests threatened by someone like John Boone, they begin applying political pressure. They leak stories to the press, they try to make the lives of the prisoners miserable and intensify the pressure until trouble breaks out. They say they need more money, that Walpole is a tinderbox. As elections draw near, you read in the paper a report of every fight that breaks out. But the day after elections, someone is killed in the prison. You never read about that. Finally they get a reaction, which is always highly publicized by the press. They can get rid of any public official they dislike. But the guards at Walpole went on strike last year and the prison union ran the prison much more efficiently and humanely than the guards did. Their stories can't be all true."

Nolan ascribed high crime rates to a social failing. If we want to

check crime, he said, we have to start with the conditions that cause it. "No one is born with a gun, no one born with a desire to steal. We make them the way they are and if they're going to change, we've got to have the interest to change them. But we don't. Everything that's wrong with this society we think we can fix by turning it over to some group. The simple fact is that this society doesn't care about people, it cares about things. Look at our highway death rate — we kill thousands of people. We reduced the speed limit on the highways to save gas. It also saves lives, but that's incidental. We could have done that all along, but it wasn't important. And we'll go right back to killing people as soon as we have more gas. I testified before the state legislature on the issue of the death penalty. There were perhaps 25 people in the place, most of them press reporters. Two weeks later there were hearings on the use of animal traps. The place was packed. Eighty-five per cent of the money spent on prisons is spent for the guards and only 2 per cent to help the prisoners."

Grossberg agreed with Boone that most people who were in prison shouldn't be there in the first place. "A conviction alone is severe enough punishment for most people, with its social stigma, the difficulty in getting a job, the deprivation of the vote, etc. Probation would be an adequate safeguard for most offenders, and be cheaper for the state.

For those people whom we must confine, there's no reason to treat them as sub-humans. There's usually no reason to put people in cells,

for instance. Some prisons have rooms, some are like dormitories. Nor is there any reason to deprive inmates of fundamental civil rights, like the right to vote, or the right to a fair hearing. The trend in prison is pretty much what it is in society on the outside. We're willing to give people all sorts of procedural protection, like Miranda warnings, but we aren't willing to give substantive justice. In disciplinary hearings, or parole hearings, the prisoners may be represented by counsel now, or to have witnesses speak for them. But it makes no difference. No guard is going to come to a decision against another guard's statement. Instead of an impartial hearing we get the right to counsel."

Donald Landry participated very little in the discussion. He was sentenced to life imprisonment for homicide, but has been living outside the walls of Concord prison since January, 1973. Instead, he is confined to the Shirley Pre-Release Center, where he has some freedom, but cannot get parole. He is on furlough now — he gets 14 days each year. "I was considered a radical, a troublemaker, in prison because I tried to get other inmates organized, to try to make contact with the outside. I knew it was the only way anything was going to happen. I only get 14 days a year on furlough, time I get with my family. But I don't mind coming to things like this. They're important. I've been on the outside. I've proved I can live there. But they can't let me go. There are political reasons."

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What Is So Rare As A Day In June

The information on commencement ceremonies was mailed out this week and it seems that little account has been taken of the pressures on graduating law students in setting up the events.

Most of the soirees are clustered around June 12. Does anyone in the administration know how many 3Ls will still be around June 12, much less June 1? With the end of examinations in some cases nearly a week before the first day of June, the failure to have any significant graduation function before then seems almost spiteful.

Many 3Ls will be leaving, whether for jobs or bar review courses, immediately after the end of finals. The mini-graduation proposed by some students would have been welcomed by this group. That three week interlude in the university's calendar may be too high a price to pay to attend a ceremony that the invitation states is probably "more impressive in retrospect than in prospect."

Perhaps this is a problem of coordinating the calendars of all the universities' schools. If so, then it is long overdue. The difficulties involved in different starting and ending dates, different vacations, and different class periods make cross-registration as difficult as a graduation ceremony in the middle of June is frustrating.

Fourflusher

The multiple marginal deductions taken by President Nixon seem all the more heinous in view of the asserted use of the IRS to investigate "enemies."

When an IRS employee, outraged by the figures on the President's return, disclosed them to a Rhode Island newspaper, that employee was quickly discovered and fired. But when the President of the United States determines that an individual is inimical to his political interests, that individual's confidential tax records become an open book to the political party in power.

How ironic that the champion of those who categorize the poor as welfare cheaters should be revealed as one of the biggest chiselers of all time. His total income tax and charitable contributions combined total less than the budget of most Junior Achievement clubs.

The typical White House ploy of denying any knowledge of the wrong-doing (is that delegation or dereliction?) has in this case been utterly contradicted by the individuals involved, who assert that they apprised Nixon fully of each and every one of these atrocities against the Internal Revenue Code.

The President should fold his hand before the nation calls his bluff. The stakes are too high.

HARVARD LAW RECORD

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Fenno

"Did you enjoy your vacation?" Fenno asked solicitously as the 1L sat down beside him.

The 1L adjusted his Fun City Souvenir Beanie with one hand while absently folding and refolding the stubs of several Pimlico Race Track tickets with the other.

"Actually," he said with cultivated tentativeness, "I enjoyed it very much — until just a few minutes ago."

"What happened just a few minutes ago, besides your arrival back at HLS?" Fenno asked politely.

"I met one of my best friends here."

"That was a tough break," Fenno said sympathetically, having himself met several of the first year student's friends on various less than memorable occasions.

"And he told me how *he* spent *his* spring vacation," the 1L continued, ignoring Fenno's remark.

Fenno nodded. "Let me guess," he offered. "Preparing an outline."

The 1L shook his head ruefully. "No," he said with a choking, ironic, dry little laugh that was almost as poignant as the tone he assumed whenever he mentioned *Swift v. Tyson*. "No, not *an* outline."

"He did more than one?" Fenno demanded, genuine alarm creeping into his voice. He shook his head disapprovingly. "There's entirely too much ambition present in your section. It comes from admitting a lower class of people."

"No," the first-year student lamented, "not just outlines: *the* outlines. The grand synthesis of every course. Eighty pages each. Typed. Single spaced. On legal paper. With practically no margins." His whole body shuddered and he seemed on the brink of despair.

"Has he tried to sell them yet?"

The 1L nodded. "Seven-ninety-nine each, or a set of four for \$30."

"Well, there's some hope then," Fenno said, brightening. "At least he's not totally depraved. That does seem a little bit high, though."

"And that's his special price for his friends. Everyone else has to pay that plus duplicating charges."

Fenno winced. "Well, it was bound to happen," he observed reflectively, after a rather heavy pause.

"What was bound to happen?" the 1L asked.

"This: the Business School's finally figured out how to squeeze 'Advanced Concepts of Marketing' into the combined degree program."

Letters to the Editor of The Record

Founder Applauds 'Boldest' Record

To The Editor:

I enjoyed both issues of March 15, in spite of the fact that I was briefly sucked in by the plausibility of all the stories in the Ides of March version.

As originator, one of three founders (with Paul Hellmuth and Charles Sweet) and first president of the RECORD, I was elated to see that you had substituted "boldest" for "oldest" under the name plate.

Contrary to what some New Englanders believe, just because something is old doesn't mean it is good. The RECORD happens to be both old (relatively) and good. I would rather see it boasting of being bold rather than being old, but I suppose this change will vanish with the rest of the put-on.

In short: Viva bold! Abajo old!

Charles O. Porter '44 ('47)
Eugene, Oregon

Hasty Letter Laments News

To The Editor:

I have just read with deep dismay in your issue appropriately dated "The Ides of March" the news of a faculty vote making passfail mandatory as a system for evaluating student performance at the Law School. I suppose you will be visited by an avalanche of outraged commentary on this from alumni. Nonetheless I want the personal catharsis of telling you how dreadful this denouement seems.

At least for me and many of my classmates the disease the Law School was designed to cure was personal fatheadedness. We all arrived as 1Ls in the serene conviction that we were God's gift to the American Bar. During the first semester of class dialogue I formed the impression that there were some pretty smart fellows around the place and even became willing to concede that some of them were as smart as I thought I was. It never remotely occurred to me that any of them were smarter than I was.

Then I took an examination in Criminal Law at the end of the first term and when I got the mark I thought some sort of dreadful mistake had been made — perhaps my paper had gotten mixed up with the paper of some cretin who didn't know how to write English, because the score given me (even though it was a "pass") was barely above the threshold of failure.

So I asked around and found I had a lot of company in the low "C's." Furthermore I identified a few people who had gotten marks in the B range and even one or two who got A's. I started to observe their habits and tended to listen to what they had to say a good deal more closely than had been my inclination theretofore. Actually that very

salutary experience was the beginning of the learning process for me. Learning is listening, and I couldn't begin to listen until I combed out of my mind the static of my own fatuous but misplaced self-confidence, and began to hear with respect the opinions of my betters. I didn't take their word on faith nor did the Law School encourage any such a result, but when I didn't understand them or didn't agree with them I learned that most of the time this meant I needed to work harder and think the problem out more carefully. In my professional life since leaving the Law School one of the most valuable habits I took away was the ability to recognize people smarter than me and the willingness to learn from them. It would have been almost impossible for the Law School to get this through my fat head without the grading system.

As the semesters continued I managed to do somewhat better because bad grades encouraged me to work harder, think more carefully and listen more accurately. I never did very well but I also stopped doing very badly. For the most part the mediocre results I achieved were an accurate reflection of the degree of talent and industry I was able to bring to the learning task. I got a very few bad grades that should have been better and a very few good grades which overstated my ability, but for the most part my grades were an accurate reflection of my standing in the Law School peer group. I doubt very much I would have been able to maintain that standing or would have been able to benefit half as much from the Law School's training without the feedback of grades.

Perhaps I was unusual and pathological; perhaps most other people don't need the discipline of grades to learn a decent humility; perhaps the admissions screening process at the Law School today admits only candidates who have learned to listen and who suffer from no misguided conviction that the light they now shine on the world is as bright as it ever will be. However I doubt it. As Jack Kennedy used to say, "Life is not fair," and the legal trade is a pretty tough sector in which to live it. It will be a great shame if the Law School ceases to transmit at least a glimmer of this truth to its students. I don't care what damn fool things they do at universities other than Harvard, but I am certainly sorry to see Harvard erode the basic discipline of grading from a legal education. William Q. Keenan '49
New York, N.Y.

Rent Controller Praises Experience

To The Editor:

I particularly enjoyed the article in your March 8 issue concerning the experience of one of your students with the Rent Control program in Cambridge, a majority of whose Board members at the time were Law School

graduates. Particularly gratifying is the fact, reflected in the article, that as the hearing for a rent increase progressed, the condition of the leased premises improved. Improvement of leased premises is obviously one of the main objectives of the Cambridge Rent Control program.

As I stated in the hearing, I believe that the experience gained by law students in representing tenants before the Rent Control Board will be of great value to them in their later practice. Certainly the student who wrote the article learned one of the basic rules of the practicing lawyer: where the choice is between litigation and a compromise settlement, take the settlement.

Alan L. Lefkowitz '58
Boston, Mass.
Former Chairman

The Difference Is Money

To The Editor:

It's funny, almost, to read about the difficulties students are experiencing in getting the School to establish an effective placement service for students interested in working with legal service organizations (RECORD, February 1). One would have thought that the administration of the School, which I assume is still primarily an educational organization devoted to the development of its students, would have taken an active and aggressive lead in this matter. This is the same administration which is expending energy on organizing and managing the Eighth Program of Instruction for Lawyers, to take place next summer. This program will involve sending fifteen Harvard professors to Hawaii, where they will present short courses for the elucidation of attorneys from, one presumes, the Mainland. It is surely harder to organize than a series of placement interviews.

Perhaps the difference in emphasis is one of money. Although it might cost only a thousand dollars to bring, say, the representatives of fifty legal service organizations to Harvard, this would be a net outflow of cash. Running a program for alumni in Hawaii will bring fees for those participating, overhead contributions for the School, and the whole thing will be conveniently paid for ultimately by the taxpayer. It's worth the trouble.

May I suggest that interested students draft a letter to be sent to a relatively small selection of firms, asking for a set amount — say, \$100 from each firm — to be used for the purpose of arranging interviews with public service organizations. The letter would have to be signed by a sympathetic member of the administration or faculty, in my opinion, to be effective; but perhaps a 100% student letter could do the trick. Open a bank account for the funds, and then purchase air tickets for those organizations willing to send interviewers. Run the operation on a shoestring, to see how it goes. If you get a good response, use this to sell the procedure to the School for the next academic year.

Incidentally, what is a WATS line?

William A. Schaffer '59
Jakarta, Indonesia

Letters

STS Lacks Mens Rea

To The Editor:

The letter from the United States District Attorneys for the Southern District of New York, 58 *Harvard Law Record* No. 7, p. 11 (March 22, 1974), while not drafted so as to require an answer, does deserve a response.

While we admit the error brought to our attention with such dispatch not common to governmental bodies — cf. *Clearfield Trust Co. v. United States*, 318 U.S. 363 (1943) — we would like to offer an explanation as an affirmative defense. By the very nature of our organization, we disdain the use of record books and other reference materials in the creation of the quiz and rely on collective extemporaneous formulation instead.

During the make up of the quiz in question, the authors were initially in agreement that Phil Jackson (the suggested nickname shall remain a local aberration) attended the University of North Dakota. However, a strong Knicks supporter happened by and with the enthusiastic excesses and inaccuracies typical to his breed, assured us that we were in error. While as with most New York fans, he was overbearing, this should not be taken as a defense of overborne will. Rather, we simply assert a lack of intent and misplaced trust.

Our final conclusion falls in the realm of human nature rather than legal presentment. You can never trust a Knicks fan.

We should note that the omission of a Sports Quiz in the March 8, 1974 edition of the *RECORD* was due to an editing job by the editors — a clear demonstration of their priorities — and not to any failure on our parts to deliver our weekly morsel for quiz aficionados.

James S.T. Jardine, 3L
Sheldon L. Solow, 2L
Cambridge, Mass.

Trivia Society Challenges You

With the first of the big four golf tournaments coming up, we offer a special masters quiz.

1. The first Masters Championship was played in 1934. Name the winner.

2. Arnold Palmer and Jack Nicklaus have each won the Masters four times. Two other players have won it three times. Name them.

3. In 1960 Arnold Palmer mounted one of his famous "charges" to come from behind and win the tourney. Who was the runner up?

4. Name the player who *never* won the masters

- a) Cary Middlecoff
- b) Tony Lema
- c) George Archer
- d) Craig Wood

5. Name the player who had the highest tournament finish as an amateur.

6. One of the most famous single shots in golf history took place in the 1935 tournament. Describe the shot and name the player who hit it.

7. Name the Founder of the Masters Tournament.

8. In 1971, the Masters champ finished 9 under par, scoring an incredible 20 birdies while giving back 11 strokes to par via 9 bogies and a double bogey. Name this champ of inconsistency.

9. Jack Nicklaus holds the lowest score for any Masters Championship with 271 in 1965. Name either of the two players who hold the record for the highest winning score.

10. True or false: The Masters has never been won by a foreign player.

Prepared by the Harvard Law School Sports Trivia Society.

Dwight Speaks To Republican Group Tuesday

Massachusetts Lieutenant Governor Donald R. Dwight will speak at the Law School on Tuesday at 7:30 p.m. in the Wheeler Room.

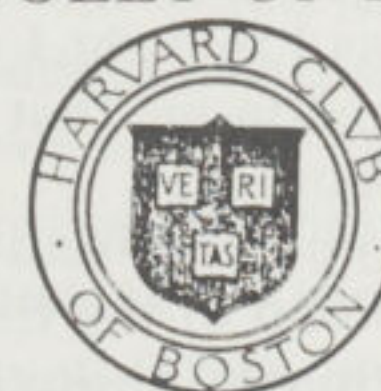
Dwight will speak on "The Long Term Impact of Watergate" in an address which is open to the public sponsored by the Harvard Law and



Lieutenant Governor Donald R. Dwight speaks Tuesday

Graduate Schools Republican Club. Prior to his election to statewide office in 1970, Dwight served as Commissioner of Administration under Governor Sargent and as Associate Commissioner of the Department of Public Works under Governors Peabody and Volpe.

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Legal Characters: Styles versus Reality

By Paul R. Gupta

The Partners, Louis Auchincloss, Little, Brown, Boston, 1973

In a variety of contexts, usually unfavorable, lawyers have recently been subjected to the kind of publicity once reserved for politicians and other actors. Even in the details of their demeanor, however, lawyers are generally a reticent group, both because of tradition and the canon of ethics. I am told that some years ago a local bar association reprimanded a new firm for printing its announcement cards on blue paper stock, instead of the usual off-white; even garishness, it was believed in an earlier and more innocent age, is a corrupting influence worthy of corrective attention.

While a seemingly endless number of lawyers have been indicted on more serious charges than supposed breaches of decorum, the public attitude toward the legal profession as a whole appears to be curiously ambiguous, even after the revelations about Watergate and other assorted scandals. Books which characterize the lawyer as robber baron — witness *The Superlawyers* and *Lions in the Street* — have enjoyed considerable success, no doubt partly because of their moral exhortations. It is difficult to come away from these books without a reassuring sense of moral superiority; they seek to tell the mythical man-on-the-street that, at least he has honor (relatively speaking of course) although he may not have power. I suspect that some people were as titillated by reading about Washington lawyers' continuing flirtations with government bureaucrats as about Henry Kissinger's supposed dalliances with his various starlets.

On the other hand, despite the profession's bad press, there has been a dramatic increase in the number of persons interested in becoming lawyers. When the Gallup organization asked Americans between the ages of eighteen and thirty to choose the profession that they would most like to enter, in 1962 only eight per cent chose law. When the poll was updated four months ago, the figure had risen

to twenty per cent. No other profession had a comparable growth in popularity.

Perhaps the poll is not sufficiently sensitive to gauge reactions to the adverse publicity about lawyers, but it seems more likely that the disclosures have stimulated interest in a legal career as a vehicle for realizing individual ambitions. People who seek power — and either are unconcerned with moral problems or believe that private practice imposes fewer moral constraints than public life — may look beyond the traditional rationale for becoming a lawyer, best expressed by Thomas Jefferson: "The study of law is useful in a variety of points of view. It qualifies a man to be useful to himself, to his neighbors and to the public. It is the most certain stepping-stone to preferment in the political line."

While most of the lawyers who have become involuntary celebrities in the last several months have hardly enhanced the Jeffersonian ideal of public service, nor demonstrated the wisdom of using law as a stepping-stone to political activity, the recent glimpses into private practice have hinted that vast power has come to rest there. If power lay with those who were visibly in control of government in Jefferson's time, and with the "captains of industry" in the Gilded Age, today many apparently believe that the usually anonymous partners of the major law firms actually dominate the nation. As David Halberstam generalizes in *The Best and the Brightest*, writing about Robert Lovett: "In a world like this he knew that those whose names were always in print, who were always on the radio and television, were there precisely because they did not have power, that those who did hold or had access to power tried to keep out of sight."

More directly, from a book cover blurb: "Who are the most powerful men in America today? The President? The Congress? The heads of giant corporations? The leaders of big unions? Guess again, and try — the Superlawyers." Thus it may be better to be Louis Auchin-

closs—trusts and estates partner in a New York firm, the "unofficial laureate" of Lovett's world (in Halberstam's phrase), and author of the best-selling *The Partners* — than to be the former tax specialist currently in the White House.

Auchincloss' new collection of short stories about the firm of "Shepard, Putney & Cox" provides a necessary corrective to the public image of lawyers that has been generated by books like *The Superlawyers* and by Watergate publicity. He, too, speaks of "Establishment" lawyers with ties to politics and other aspects of public life; but rather than simply capitalizing upon the public's fascination with the legal profession, he attempts to make his fictional characters more credible than the somewhat lurid lawyers analyzed by journalists. In treating the relationship between the lawyer's pursuit of his personal aspirations and the obligation he owes his profession, Auchincloss provides some helpful suggestions by way of focusing his reader's attention on the individual responses of the lawyers in Shepard, Putney, rather than presenting averages and aggregates.

Auchincloss, who has been concurrently practicing law and writing for about thirty years, is unashamedly interested in decorum as well as substance. As a "novelist of manners," he apparently wishes also to claim a "genuine social conscience." Thus the central figure in the series of stories, Beekman ("Beeky" to his friends) Ehringer, is subjected to opposite influences at the beginning of his career. When Judge Howland persuades Beeky to go to law school — Harvard, of course — the Judge admonishes: "The law was what the church had been in the Middle Ages: the only ladder available for the elevation of the reflective, the introspective, the noncompetitive in a society of brigands.... The great lawyers are all decent men." But, after Beeky begins practice, the Judge's ultimately successful archrival (a Manhattan land de-

(Continued on Page 14)

Legal Profiles Compare Style With Realities

(Continued from Page 14)

veloper) advises simply, "Style is everything."

Style is also critically important for the firm's resident politician, a former assistant secretary of state, who "had been bitten by the federal bug and was good for nothing." Rather than thinking of himself as a power-broker, Horace Putney wants to get "back where he belonged, in a good embassy, or higher, in State or Defense! Then all his learning, his words, his sacred concepts would grace him like a glistening robe." Yet, while Putney talks about world peace incessantly, his ideas have become mere formalities and his manner superficial. Rather than becoming a superlawyer, his influence in his own firm is apparently diminished after government service.

But, Beeky, now paterfamilias of the firm, takes a different view: "If I could be anything, it would be a kind of gray eminence. I like power for what it can accomplish, not power itself." Beeky further limits himself to politics within the firm, leaving affairs of state to others. Power has become the ability to minimize the constraints imposed upon him by society; some will protect themselves from society by accumulating great wealth, others will shape society to their own visions, and Beeky will attempt to order his life by projecting his personality on his firm.

Insofar as Auchincloss corroborates the mystique of lawyering, then, he suggests that power has indeed gone underground and that the rewards of visibility are minimal at best. Such notions are of course inconsistent with democracy and its corollary, public accountability. Gray eminences are better suited to a law firm than to the Republic.

Memories of April 8

Rajah of Writ Memorializes Babe Ruth: Outside and Away

By Bob Flanders

Dear Babe:

How can you possibly be consoled, you who always stood where you hardly seemed to stand, a round man at home in a square box? It must be that you could foresee with what interloping ease you would be exposed some day, you who stood always knowing that the shuffled circle must be run, that the wide white arc must crowd the sky.

It must be that you knew it all along, from when you first flexed in a moment's flab, when you first swung onto great rungs, the dug-outs teeming with acolytes, the star spangled banter newly creeded; but how you imperial clown, you principle of famous girth, how could you possibly know you would not linger on indefinitely, as if you had already launched an immemorial course, a life that would not fit its own uniform?

Alas, Babe, can it be that you are now but a memorable cowboy, a mere sultan of replicable Americana? From home plate's immediacy, you used to ride the white last into infinite spheres, until, at last, notwithstanding moral bulk, you boomed immortal, your tenfold sixshooter smoking still, your candy bar face forever arched, as if it could see beyond all stadia of substance, as if parabola of vision and vaulting blast were one and the same at last.

You ruthless politician! That time you pointed you knew your whole past was before you; before you even made your pitch you knew you would run around and end where you had so lately begun. And yet, you kept on beginning, you kept on striding up to that empty plate and filling it with pounds of put-on, reaching for that farthest corner, that edge where white and black commingle, that spot to which all pitchers pitch, outside and away.

You kept on pointing toward the bleached sky while we turned in

our seats and murmured at your vatic stance, your lumpen posture. And still you began to swing, even as the ball was perfectly placed, outside and away; still, you kept on ending things where you knew you would begin again, even as the slammed ball flew to its ethereal vista, far outside and away.

But what can you point to now, Babe? We looked at that somewhere over center's wall and imagined the flight things would take, not the actual swoop and swat, but the flight that would begin when we recalled your center-seeking wonder, that precedent gesture to the intimitable shuffle, that circling majesty remaining fat against a thinning orb. You never belied the difficulty of your feat like some brazen aberration, some swinging wooden god, too big-belted czar, running home, running home, home-running always.

But was it just battered power that you wielded well, so well that when you gripped the heavy willow it was we who lost our grasp, gasping as you lowed the sky? O Babe, you played the game as pageantly, as part of the whole lumbering pomp, wimpled banners pleating yet, an unserious world still the World Series. But you, you Bamboozler Babe, you fat fooler of us all, with what athleticism can you explain how your record does not remain? With what finger can you point us away from the illusion of how easy it is to take a round bat and hit a round ball squarely?

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Bok Responds to Questions On Women, Education Costs

By Kermit Kubitz

Harvard University President Derek C. Bok, former Dean of the Law School, responded to questions from Harvard media at a press conference held Wednesday in Holyoke Center.

He was asked about a proposal made by William F. Buckley, publisher of the *National Review*, to require a year of service as a condition of college attendance. Bok clarified the proposal, which was that the trustees of the ten leading private universities endorse a policy that no one be admitted who does not agree as a condition of graduation to spend a year in public service.

Harvard's President said that his difficulty with the proposal came "at the point of saying that we would compel all students, as a condition of being admitted and receiving a diploma, to spend a year in public service."

While acknowledging that such service might be very inspiring and useful for young people, Bok said that "characterization of the scheme as voluntary was open to question," and questioned, "whether a private institution engaged in certain purposes ought to use whatever attraction it has for other, unrelated purposes."

Asked to reflect on the fifth anniversary of the building takeover of April, 1969, the then-Dean of the Law School reminisced, "If I collected 12 hours of sleep during the entire week I was lucky."

Events of the week culminated, Bok said in his finding himself, "in a nightly vigil in the Law School library ... not quite knowing where I was, on a table, addressing a large number of students. A number of student leaders inquired very solicitously about my health and sent me home."

In response to a question about inter-disciplinary courses of study, Bok referred to the law school-business school program, "which I helped to institute five years ago A number of very talented students have taken advantage of it."

Describing the process of creating such programs, the former

labor law professor said, "We're going to have to invent some new blocks that provide a fusion in a single course between courses of the Law School and the business school." As part of this process, he stated that it was necessary to determine what the "essential parts of the methodology conveyed by the business school or the Law School" are.

This investigation has been placed under the supervision at the Business School of Professor John H. McArthur. McArthur's task will be to "research and analyze how you should organize interdisciplinary programs to increase their chances of success," said President Bok.

Bok was questioned on the number of tenured faculty members in the University who are women. He stated that there are a number of efforts under way to discover women applicants for such positions, but that the number that will be found is uncertain.

"We are trying to the extent we can," Bok said, "to put women on ad hoc committees" but he added that in some scientific areas it is difficult to find women to serve on such a committee.

The purpose of these "procedural safeguards", said Bok, is to "try to wipe out bias and make sure we are aware of available candidates."

"I would hate to put down a projection which we must meet," Bok warned. "I don't think 20 is a hard and fast figure. What we are committed to is whatever number of tenured women will result from the procedures we have instituted."

In a follow-up, the University President was asked whether the cost of an education at Harvard was pricing middleclass students out of the university. "I don't think we're running a substantial risk of that," Bok replied.

Whether tuition or total costs are used, Bok asserted that the cost of a Harvard education hasn't risen any faster than average family income. There may, however, be a problem with the middle-income group, defined by Bok as \$25,000-\$35,000.

Law Commune Foursome Tell About Activities

(Continued from Page 7)

scribed how they chose this unusual career path.

"Most people when they graduate from Law School don't know how to practice law. Part of the idea of Collective Practice is trying to plan while still in school. Our collective got together in the third year. The Panther trials were being held and we worked together on that case."

One group of six billed about \$48,000 per year. Costs included malpractice insurance, rent, phone (about \$200 a month) and office supplies. Salaries ran from \$10,000 a year for a man with a family to nothing for another person whose spouse was working. "This year we hope to push that whole range up a little."

While fee cases may appear to be 75-80% of files, one lawyer stated that his time was split "50-50 between fee and non-fee. That's the way I choose to do it."

Another speaker commented, "Most of the people we represent are victims in one way or another of the system," and added, "A political case is a case that will generate organizing."

While the law communes have had a reputation as places where all share in the work of lawyers and non-lawyers, one of the lawyers answered a question on the subject, "We can't really afford to have too many people who aren't working as lawyers, who aren't lawyers."

Dorm Council Activities

This Weekend

TGIF — Today, 4-6 p.m.

Harkness Downstairs Lounge

LAW SCHOOL FLICK

"WHO IS

HARRY KELLERMAN...?"

with Dustin Hoffman

Tomorrow Night (Saturday)

Two Showings 7:30 and 10:00 p.m.

Harkness \$1, or 50c

with Dorm Council Card

Picker Details Sex Discrimination Cases

"Studies in Washington, D.C., show that women on police patrol are as effective as men, but they handle situations in entirely different ways. As a litigator, however, I'm less interested in how women do well on patrol than simply getting them onto the police force: patrol is the 'entry level' job for everything from work in the police laboratory to criminal investigations." This was the way Attorney Jane Picker, addressing an audience of the Women's Law Association Speakers Program on March 21, summed up the facts behind her organization's court efforts to eliminate height and weight requirements for entry into the Cleveland Police Force, whose \$12,000 salaries are the greatest opportunity for advancement for minority women.

Picker, founder and Legal Vice-President of the Women's Law Fund, Inc., of Cleveland, also reported on the three years of litigation, crowned with success in the Supreme Court's January, 1974,

decision in *Cleveland Board of Education v. LaFleur*, to eliminate requirements that school teachers leave work after the third month of pregnancy and wait until three months after the birth to return.

Expressing regret that the Court had chosen due process grounds, rather than the equal protection grounds she had stressed in oral argument, Picker noted that much work remains to be done in achieving equity for pregnant workers. "Employers sometimes say that they regard pregnancy as voluntary, and therefore not worthy of aid, but in litigating for pregnancy benefits like other medical benefits we have found repeatedly that where a male employee has such illnesses as emphysema caused by voluntary smoking or liver disease caused by voluntary drinking, the employer made no objection to benefits." She noted that European countries are far

ahead of this country in provisions for pregnant workers.

During the question and answer period which followed her talk, Picker stressed that there are numerous significant sex-discrimination cases waiting to find lawyers willing to take them. She herself lives on her salary as Associate Professor of Law at Cleveland State University, where she sponsors a clinical program in women's rights litigation. The only lawyer she knows who lives on Title VII litigation, which can take a long time to reach settlement, "has a Mercedes, but it's pretty old, and I understand it doesn't work very well." School boards, and police forces, on the other hand, can easily afford protracted litigation.

Picker's talk was the first sponsored by the Women's Law Association Speakers Program. According to this year's Chairman, Mary Gallagher, a scheduled talk by author Frances FitzGerald has had to be postponed until next year.



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Trivia Answers

1. Horton Smith
2. Sam Snead and Jimmy De-meret
3. Ken Venturi
4. (b) Tony Lama
5. Ken Venturi: second in 1956
6. Gene Sarazen hit a 4 wood for a double eagle on the 15th hole of the final round. He then defeated Craig Wood in a playoff.
7. Robert Tyre Jones
8. Charles Coody
9. Sam Snead (1954); Jack Burke (1956); 289
10. False. Gary Player of South Africa won in 1961.

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